

BEFORE THE  
**Federal Communications Commission**

WASHINGTON, D.C. 20554

FCC - 1007

In the Matter of	)	
	)	
Cellular Service and Other Commercial	)	WT Docket No. 97-112
Mobile Radio Services in the Gulf of Mexico	)	
	)	
Amendment of Part 22 of the Commission's	)	CC Docket No. 90-6
Rules to Provide for Filing and Processing of	)	
Applications for Unserved Areas in the	)	
Cellular Service and to Modify Other	)	
Cellular Rules	)	

To: The Commission

REPLY COMMENTS  
OF THE  
AMERICAN PETROLEUM INSTITUTE

The American Petroleum Institute ("API"), by its attorneys, pursuant to Section 1.415 of the Rules and Regulations of the Federal Communications Commission ("Commission"), respectfully submits the following Reply Comments regarding Comments filed by other participants in response to the Commission's Second Further Notice of Proposed Rule Making ("Notice")<sup>1/</sup> in the above-referenced proceeding.

<sup>1/</sup> WT Docket No. 97-112, FCC 97-110 (adopted Mar. 28, 1997).

## **I. REPLY COMMENTS**

1. API's Comments supported the Commission's proposals for the resolution of long-standing conflicts between land-based and water-based cellular carriers in the Gulf of Mexico and for the auctioning of additional Commercial Mobile Radio Service ("CMRS") spectrum to serve the Gulf population. API explained that such measures should enhance the ability of the oil and gas industry to meet its growing demand for commercial services in the Gulf to supplement the private systems typically employed in connection with offshore oil and gas exploration and production activities. Noting certain technical impediments to the provision of Personal Communications Service ("PCS") in an offshore environment, however, API recommended that the Commission rededicate the 1850-1990 MHz band for the provision of fixed point-to-point services in the Gulf.

2. While some of the commenting parties in this proceeding expressed opposition to and/or reservations regarding the Commission's proposal to auction non-cellular CMRS spectrum in the Gulf, API does not believe that these parties have presented any valid grounds for the withholding from auction of such spectrum. As explained below, there simply is no reason why the Commission should not proceed as soon as possible with the licensing in the Gulf of CMRS spectrum other than PCS.

**A. The Commission Should License Additional CMRS Spectrum in the Gulf of Mexico**

3. The oil and gas industry constitutes the primary market for communications services in the Gulf. As Shell Offshore Service Company ("SOSCo") noted in its Comments, a resurgence of exploration and production activity in the Gulf has been accompanied by an increase in demand for reliable voice, data and video telecommunications services. (Comments of SOSCo at 5.) The demand for such services likely will continue to grow as the major petroleum and natural gas producers move their operations into increasingly deeper Gulf waters.<sup>2/</sup> However, the only CMRS providers currently serving the non-coastal regions of the Gulf are Coastel, L.L.C. and Petroleum Communications, Inc. ("PetroCom"), the two cellular licensees. Thus, API believes that the oil and gas industry would benefit greatly from the availability of additional CMRS options in the Gulf.

4. Citing a report prepared by Darby Associates ("Darby Report"), PetroCom claims that there is insufficient demand in the Gulf to support the licensing of any non-cellular CMRS spectrum. (Comments of PetroCom at 16-19.) As an initial matter, API strongly questions the validity of the Darby Report. Not only does the report seem in

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<sup>2/</sup> See Houston Chronicle, "Gulf is Heart of Deepwater Drilling," (May 4, 1997), at 1J and 4J (describing trend toward deepwater drilling operations).

conflict with the practical experience of API's member companies in attempting to satisfy their communications needs in the Gulf, but it is -- by the author of the report's own admission -- based upon "tentative" and "impressionistic" estimates of the size of the total market for communications services in the Gulf. (See Darby Report at n.16 (appended to PetroCom Comments)).

5. Moreover, API agrees with SOSCo that the Commission should not require a demonstration of demand before licensing spectrum in the Gulf. (Comments of SOSCo at 6-7.) After all, the Commission has not imposed such a prerequisite upon the licensing of spectrum in other regions, including insular, lightly populated areas such as American Samoa and Guam. (Comments of SOSCo at 7.) In this instance, the fact that the largest group of potential CMRS customers in the Gulf -- i.e., the oil and gas industry -- supports the licensing of additional spectrum and that at least one party -- i.e., SOSCo -- has expressed a potential interest in bidding for some of this spectrum should constitute more than enough justification for moving forward with the Commission's proposal. Prospective bidders, rather than the Commission, should be responsible for analyzing market factors, assessing risks and making an ultimate determination as to whether it would be in their interests to purchase new spectrum.

6. A number of parties who hold land-based non-cellular CMRS licenses in the regions that border on the Gulf (and trade associations representing such licensees)

have expressed concerns about the licensing of such spectrum to water-based providers.<sup>3/</sup>

Many of these parties claim to have designed and constructed their systems under the assumption that their existing licenses entitled them to serve the coastal regions of the Gulf. Such parties argue that the issuance of CMRS licenses in the Gulf would deprive them of a portion of their license rights, subject their operations to harmful interference, and/or require them to undertake costly modifications to prevent interference to new licensees.

7. While API takes no position on the validity of these assertions, it strongly urges the Commission against allowing such concerns to derail the contemplated licensing of non-cellular CMRS spectrum in the Gulf. Regardless of whether some land-based carriers are (or should be) serving certain coastal areas, the fact remains that there are no non-cellular CMRS options available in many regions of the Gulf, including the deepwater areas where much of the oil and gas industry's offshore operations are now focused. As in the cellular context, the respective rights of land-based and water-based licensees can, if necessary, be delineated by the Commission, and appropriate interference standards can be adopted. Indeed, issues of this nature typically arise whenever the Commission seeks to license new spectrum. Thus, the potential need to

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<sup>3/</sup> See, e.g., Comments of American Mobile Telecommunications Association, Inc.; Council of Independent Communications Suppliers; DW Communications, Inc.; Nextel Communications, Inc.; Paging Network, Inc.; and ProNet Inc.

resolve such issues does not present a basis for the Commission's abandonment of its worthy goals of promoting CMRS competition in the Gulf and ensuring that adequate service options are available to meet the telecommunications needs of the Gulf population.

**B. There is No Support for the Auctioning of PCS Spectrum in the Gulf**

8. API explained in its Comments that, although PCS could be an asset to offshore operations, unfavorable propagation characteristics may make it technically infeasible to implement PCS in the Gulf of Mexico. (See Comments of API at 8.) Accordingly, API recommended that the Commission rededicate this band for the provision of fixed point-to-point services in the Gulf. API further noted in this regard that such continued use of this band would be beneficial as oil and gas production facilities are established in ever deeper water.

9. Many other commenting parties opposed the licensing of PCS spectrum in the Gulf, albeit on different grounds. SOSCo, for instance, pointed out that the assignment of such licenses would necessitate the relocation of Private Operational-Fixed Microwave Service systems currently utilized in the Gulf by the oil and natural gas industry, thereby causing severe disruptions to these licensees' operations. (Comments of SOSCo at 7-8.) In addition, a number of existing PCS licensees in regions abutting the

Gulf set forth concerns about the infringement of their claimed license rights and potential interference with water-based providers.<sup>4/</sup> Thus, given that neither the potential users of PCS in the Gulf nor the PCS industry supports the auctioning of PCS spectrum to water-based licensees, and not a single party has expressed any interest in purchasing such spectrum, the Commission should not move forward at this time with the licensing of PCS in the Gulf.

## **II. CONCLUSION**

10. API believes that the oil and gas industry would benefit greatly from the availability of as many CMRS options in the Gulf as the market will support. Consistent with its licensing approach in other regions, however, the Commission should not require proof of adequate demand before making spectrum available to potential licensees. Further, the concerns expressed by existing land-based carriers do not constitute valid grounds for declining to auction CMRS spectrum in the Gulf. The licensing of additional PCS spectrum, on the other hand, would be inappropriate in light of the lack of any support in the record for such a measure.

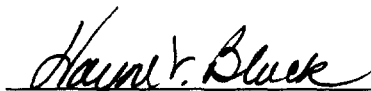
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<sup>4/</sup> See, e.g., Comments of Aerial Communications, Inc. and Western PCS BTA I Corporation; ALLTEL Mobile Communications, Inc.; BellSouth Corporation; Benbow PCS Ventures, Inc.; PrimeCo Personal Communications, L.P.; and Sprint Spectrum, L.P. d/b/a Sprint PCS.

**WHEREFORE, THE PREMISES CONSIDERED,** the American Petroleum Institute respectfully submits the foregoing Reply Comments and urges the Federal Communications Commission to act in a manner consistent with the views expressed herein.

Respectfully submitted,

**THE AMERICAN PETROLEUM INSTITUTE**

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Dated: August 4, 1997